

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.7937 OF 2005

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Between;

M/s.Madina Engineering college,Cuddapah

...Petitioner

vs.

The Director of Technical Education, A.P.Hyderabad and another

....Respondents.

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ORAL ORDER

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Heard Sri M.Radha Krishna Murthy learned counsel for the petitioner, the learned Government Pleader for Higher Education for respondents 1 and 2 and Sri G.Vidya Sagar, learned counsel for the 3rd respondent.

The petitioner is an Engineering College administered by Bukharia Educational Society, Kadapa. It challenges the order of the 1st respondent dated 09-11-2004 directing the petitioner-college to immediately reinstate its employees who have been removed by orders passed by the petitioner-management. The impugned order states that the petitioner-management has not obtained prior approval of the competent authority as required under Section 79 of the Andhra Pradesh Education Act, 1982(for short “the Act”) and therefore retrenchment of staff is unjustified. The impugned order also records that though the retrenched employees appear to have pursued other remedies, such pursuit of other remedies does not prevent the exercise of jurisdiction by the 1st respondent under Section.79 of the Act. On these assertions including the violation of the provisions of Sec.79 of the Act, the 1st respondent had directed the petitioner-management, by the impugned order, to reinstate the employees immediately under intimation on or before 30-11-2004 failing which appropriate action under the provisions of the Act could be initiated against the management including for withdrawal of the approval.

The only reason vouchsafed in respect of the 1st respondent’s direction, by the impugned order, is that the provisions of Sec.79 of the Act i.e., prior approval of the competent authority for retrenchment, have not been followed. In the counter-affidavit filed on behalf of the 1st and 2nd respondents, it is categorically admitted in paragraph 4 that the petitioner-college is a muslim minority educational institution. Prior permission of the competent authority is not required in such circumstances. Section.79 has therefore no application. The singular basis for exercise of the 1st respondent’s powers, by the impugned order, is thus incompetent. The order beseeches invalidation and is accordingly set aside.

The 3rd respondent is a Union of non-teaching staff of the petitioner-college. It appears that individual workmen who have been retrenched by the petitioner-management have raised a dispute I.D.Nos.362 of 2003 to 374 of 2003 and I.D.No.22 of 2004 before the Labour Court, Anantapur under Section. 2(A)(ii) of the Industrial Disputes Act,1947 assailing the orders of their retrenchment. If that be so,

the effected workmen are at liberty to pursue their claims before the Labour Court.

The impugned order of the 1st respondent in view of the categorical admission by the 1st respondent in the counter-affidavit filed by Sri R.Chakradar Assistant Director of the 1st respondent-office, cannot be sustained as the writ petitioner being a minority educational institution need not comply with the requirement of the prior permission of the competent authority to retrench its staff under Section 79 of the Act.

Accordingly, the writ petition is allowed. In the circumstances, there shall be no order as to costs.

GODA RAGHURAM,J

5th DECEMBER 2005

*TSNR